



documentation necessary to support his opinions, analyses and conclusions as required by the record keeping provisions;

- b) USPAP Standards 1-2(e)(i) & 2-2(b)(iii) – Respondent failed to identify and report the improvements and site description adequately;
  - c) USPAP Standards 1-1(b)(i) & 1-4(b)(ii) & 2-2(b)(viii); 1-1(a) & 1-4(b) – Respondent failed to provide support for his determination of the site value and cost new of improvements in his work file and did not summarize his supporting rationale for his determinations;
  - d) USPAP Standards 1-4(a) & 2-2(b)(viii); 1-1(a) & 1-4(a); 1-8(a) & (b) & 2-2(b)(viii) – Respondent misrepresented that the sales he selected were comparable to the property. He has failed to collect, verify, analyze and reconcile comparable sales data adequately and has not employed recognized methods and techniques in his sales comparison approach. Generally, Respondent used inappropriate properties as comparable sales even though appropriate, more similar sales (in terms of salient market characteristics) were readily available in the immediate area and should have been used. Respondent misrepresented that the properties he selected as comparables were similar in salient market characteristics. Market data was not analyzed by Respondent, which needed to be and would have significantly impacted his assignment results; and,
  - e) USPAP Standards 1-1(a), 1-1(b), 1-1(c) and 2-1(a) – For the reasons detailed above, Respondent produced an appraisal report for the property that contained misrepresentations and several substantial errors of omission or commission by not employing correct methods and techniques. This resulted in an appraisal report that was not credible or reliable and impacted his assignment results.
6. Respondent omitted material facts and made material misrepresentations in his appraisal of the property as described in more detail above.
7. The parties enter into this consent order ("Order") in accordance with TEX. OCC. CODE § 1103.458.

#### **CONCLUSIONS OF LAW**

1. The Board has jurisdiction over this matter pursuant to the Texas Appraiser Licensing and Certification Act, TEX. OCC. CODE § 1103.
2. Respondent violated the above-noted provisions of USPAP as prohibited by TEX. OCC. CODE § 1103.405 and 22 TEX. ADMIN. CODE §§ 155.1(a) and 153.20(a)(6).
3. Respondent violated 22 TEX. ADMIN. CODE §153.20(a)(12) by making material misrepresentations omitting material facts.

4. The parties are authorized to resolve their dispute by means of a consent order in accordance with Tex. Occ. Code §1103.458.

#### **ORDER**

Based on the above findings of fact and conclusions of law, the Board **ORDERS** that Respondent's Texas appraiser certification be suspended for a period of 12 months, effective 5:00 p.m. (CST) on August 16<sup>th</sup>, 2013.

IT IS FURTHER ORDERED that beginning at 5:00 p.m. (CST) on August 16<sup>th</sup>, 2013, the suspension is to be fully probated for 12 months, ending at 5:00 p.m. (CST) on August 16<sup>th</sup>, 2014, subject to the following terms and conditions:

1. **EDUCATION.** On or before February 16<sup>th</sup>, 2014, Respondent shall submit documentation of attendance and successful completion of the classes set out below to the Board. All classes required by this Order must be classes approved by the Board. Unless otherwise noted below, all classes must require in-class attendance and have an exam. Respondent must receive a passing grade on the exam given in each class. None of the required classes will count toward Respondent's continuing education requirements for certification. Respondent is solely responsible for locating and scheduling classes to timely satisfy this Order and is urged to do so well in advance of any compliance deadline to ensure adequate time for completion of the course in the event of course cancellation or rescheduling by the course provider.
  - A. A minimum fifteen (15) classroom-hour course in USPAP;
  - B. A minimum (7) classroom-hour course in market data analysis and highest and best use; and,
    - I. No examination shall be required for this course;
2. Fully and timely comply with all of the provisions of this Agreed Final Order; and,
3. Comply with all provisions of the Act, the Rules of the Board, and USPAP in the future or be subjected to further disciplinary action.

**RESPONDENT'S FAILURE TO TIMELY COMPLY WITH ANY TERM IN THIS AGREED FINAL ORDER, WHICH HAS A SPECIFIC, STATED DUE DATE SHALL RESULT IN THE AUTOMATIC REVOCATION OF PROBATION AND THE SUSPENSION IMPOSED IN THIS AGREED FINAL ORDER SHALL BE EFFECTIVE COMMENCING ON THE EFFECTIVE DATE OF THE REVOCATION OF PROBATION. ANY SUCH SUSPENSION SHALL BE EFFECTIVE WITHOUT THE NEED FOR A HEARING OR OTHER ADMINISTRATIVE DUE PROCESS UNDER THE TEXAS APPRAISER LICENSING AND CERTIFICATION ACT OR THE ADMINISTRATIVE PROCEDURE ACT, AND RESPONDENT SPECIFICALLY WAIVES ANY SUCH HEARING OR DUE PROCESS.**

RESPONDENT, BY SIGNING THIS AGREED FINAL ORDER, WAIVES THE RESPONDENT'S RIGHT TO A FORMAL HEARING, ANY MOTION FOR REHEARING, AND ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER. Information about this Agreed Final Order is subject to public information requests and notice of this Agreed Final Order will be published on the Board's web site.

RESPONDENT IS SOLELY RESPONSIBLE FOR TIMELY DELIVERY TO THE BOARD OF ALL DOCUMENTS AND PAYMENTS NECESSARY FOR COMPLIANCE OF THIS AGREED FINAL ORDER. PAYMENT OF ANY ADMINISTRATIVE PENALTIES DUE MUST BE IN THE FORM OF A CASHIER'S CHECK OR MONEY ORDER MADE PAYABLE TO THE TEXAS APPRAISER LICENSING AND CERTIFICATION BOARD. RESPONDENT SHALL RETAIN DOCUMENTATION (REPLY EMAIL, FAX CONFIRMATION, RETURN RECEIPT, ETC.) CONFIRMING RECEIPT BY THE BOARD OF ALL THE NECESSARY DOCUMENTS.

RESPONDENT SHALL SEND ALL DOCUMENTS AND PAYMENTS NECESSARY FOR COMPLIANCE BY: (1) EMAIL TO COMPLIANCE.TALCB@TALCB.TEXAS.GOV, (2) FAX TO (512) 938-3966, ATTN: COMPLIANCE, OR (3) CERTIFIED MAIL RETURN RECEIPT REQUESTED TO STANDARDS & ENFORCEMENT SERVICES, TEXAS APPRAISER LICENSING & CERTIFICATION BOARD, STEPHEN F. AUSTIN BUILDING, 1700 N. CONGRESS AVE., SUITE 400, AUSTIN, TX 78701.

I HAVE READ AND REVIEWED THIS ENTIRE AGREED FINAL ORDER FULLY AND AM ENTERING INTO IT OF MY OWN FREE WILL TO AVOID THE EXPENSE OF LITIGATION AND TO REACH AN EXPEDITIOUS RESOLUTION OF THE MATTER. I NEITHER ADMIT NOR DENY THAT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW CONTAINED HEREIN ARE CORRECT. I UNDERSTAND ALL OF MY COMPLIANCE OBLIGATIONS UNDER THIS AGREED FINAL ORDER AND THE CONSEQUENCES FOR FAILING TO COMPLY WITH THOSE OBLIGATIONS.

I UNDERSTAND THAT THE BOARD AND ITS STAFF CANNOT PROVIDE ME WITH LEGAL ADVICE. I AM AWARE OF MY RIGHT TO A HEARING, AND HEREBY WAIVE A HEARING AND ALSO WAIVE ANY RIGHT TO SEEK JUDICIAL REVIEW OF THIS AGREED FINAL ORDER, INCLUDING FOR ANY SUBSEQUENT ACTION RESULTING FROM MY FAILURE TO TIMELY COMPLY WITH AN ADMINISTRATIVE REQUIREMENT OF THIS AGREED FINAL ORDER, SUCH AS PAYMENT OF A FEE, COMPLETION OF COURSEWORK OR FAILURE TO PROVIDE LOGS.

This agreement may be executed in one or more counterparts, in form of electronic mail, facsimile, or other written expression of agreement, each of which shall be deemed an original and together shall comprise evidence of full execution of the agreement.

THE DATE OF THIS AGREED FINAL ORDER shall be the date it is executed by the Chairperson of the Texas Appraiser Licensing and Certification Board. The Chairperson has been delegated the authority to sign this Agreed Final Order by the Texas Appraiser Licensing and Certification Board vote.

Signed this 8<sup>th</sup> day of August, 2013.

[Signature]  
THUAN N. PHAN

SWORN TO AND SUBSCRIBED BEFORE ME, the undersigned, on this the 8<sup>th</sup> day of August, 2013, by THUAN N. PHAN, to certify which, witness my hand and official seal.

[Signature]  
Notary Public Signature  
Vivian T. Le  
Notary Public's Printed Name



Signed by the Standards and Enforcement Services Division this 8<sup>th</sup> day of AUGUST, 2013.

[Signature]  
Troy Beaulieu  
TALCB Staff Attorney

Signed by the Commissioner this 16 day of AUG, 2013.

[Signature]  
Douglas E. Oldmixon, Commissioner  
Texas Appraiser Licensing and Certification Board

Approved by the Board and Signed this 16 day of Aug, 2013.

[Signature]  
Walker Beard, Chairperson  
Texas Appraiser Licensing and Certification Board